

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ORANGEBURG DIVISION

Daryl Robertson, individually and) C/A No. 5:19-cv-03166-SAL
as Personal Representative for the)
Estate of Ralpheal Robertson,)
)
 Plaintiff,)
v.)
)
South Carolina Department of Corrections,)
)
)
 Defendants.)
)

)

OPINION & ORDER OF REMAND

This matter is before the Court on Plaintiff's Motion for Remand, in which he asserts that this Court lacks subject matter jurisdiction. *See* ECF No. 9. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2)(a) (D.S.C.), the Magistrate Judge issued a Report and Recommendation ("Report") on December 19, 2019. ECF No. 14. In the Report, the Magistrate Judge recommended that Plaintiff's Motion for Remand be granted. The Magistrate Judge reasoned that because Plaintiff brings claims as a personal representative of a South Carolina citizen, Plaintiff is deemed to be a South Carolina citizen under 28 U.S.C. § 1332(c)(2) for diversity purposes. ECF No. 14 at 3-4. Accordingly, because Defendant is also a South Carolina citizen, the Magistrate Judge recommends that this Court is without subject matter jurisdiction under 28 U.S.C. § 1332. *See id.* No party filed objections to the Report, and the time for response has lapsed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court is charged with making a de novo determination of only those portions of the Report that have been specifically objected to, and the Court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. §

636(b)(1). In the absence of objections, the Court is not required to provide an explanation for adopting the Report and must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (citing Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the Report, the applicable law, and the record of this case in accordance with the above standard, the Court finds no clear error, adopts the Report, and incorporates the Report by reference herein. Accordingly, under 28 U.S.C. § 1447(c), this case is hereby **REMANDED** to the Court of Common Pleas for Lee County, South Carolina.

IT IS SO ORDERED.

/s/ Sherri A. Lydon
United States District Judge

January 21, 2020
Florence, South Carolina